

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 05, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SUSAN BROWN, an individual,

Plaintiff,

v.

AUTOZONE PARTS, INC., a
foreign corporation,

Defendant.

NO: 4:20-CV-5243-RMP

PROTECTIVE ORDER

BEFORE THE COURT is a motion for entry of a stipulated, qualified protective order, ECF No. 30, by Plaintiff Susan Brown and Defendant Autozone Parts, Inc. A district court may issue protective orders regarding discovery upon a showing of good cause. Fed. R. Civ. P. 26(c). Before issuing a stipulated protective order, a district court judge should ensure that the protective order's restrictions do not infringe on the public's general right to inspect and copy judicial records and documents. *See Kamakana v. City and Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006); *see also Courthouse News Serv. v. Planet*, 947 F.3d

1 581, 589 (9th Cir. 2020) (recognizing a long-held First Amendment right of access
2 to court proceedings and documents).

3 Having reviewed the protective order and the remaining record, the Court
4 finds good cause to grant the stipulated motion and enter the agreed-upon
5 protective order. Accordingly, **IT IS HEREBY ORDERED** that the parties'
6 motion for entry of a stipulated protective order, **ECF No. 9**, is **GRANTED**. The
7 protective order in effect is set forth below.

8 **PROTECTIVE ORDER**

9 The parties hereby stipulate and agree to entry of the following Stipulated
10 Protective Order ("Order"), pursuant to Fed. R. Civ. P. 26(c). The parties
11 acknowledge that certain documents or information, including but not limited to
12 employment, personnel, health, financial, and private information about plaintiff and
13 third parties that are regarded as confidential will be produced by one or more
14 parties or third parties during the discovery phase of this litigation. Accordingly, the
15 parties hereto, by and through their undersigned counsel of record, respectfully
16 request the Court to enter and stipulate to the subjoined Protective Order, pursuant to
17 Fed. R. Civ. P. 26(c).

18 1. This Order shall be applicable to and govern all depositions,
19 documents, information, or things produced in response to requests for production
20 of documents, answers to interrogatories, responses to requests for admissions, and
21 all other discovery taken under the Federal Rules of Civil Procedure and the Local

1 Rules for the Eastern District of Washington, and other information which the
2 producing party designates as “CONFIDENTIAL,” hereinafter furnished, directly
3 or indirectly, by or on behalf of any party or any non-party in connection with this
4 action.

5 2. The following information may be designated as “CONFIDENTIAL”:
6 employment, personnel, health, financial, and private information about plaintiff,
7 current and former employees of defendant, or third parties, that is not publicly
8 available.

9 3. Parties shall designate records as confidential information by labeling
10 them as “CONFIDENTIAL” prior to production. Deposition or other pretrial or
11 trial testimony meeting the criteria specified in paragraph 2 above may be
12 designated “CONFIDENTIAL” by a statement on the record by counsel during
13 such deposition or other pretrial or trial proceeding that the entire transcript or a
14 portion thereof shall be designated as “CONFIDENTIAL.” Only those portions or
15 excerpts of a deposition consisting of confidential material shall be designated as
16 “CONFIDENTIAL.” Deposition or other pretrial testimony meeting the criteria
17 specified in paragraph 2 above also may be designated as “CONFIDENTIAL” by
18 stamping a “CONFIDENTIAL” legend on the transcript of such testimony and
19 service copies on the other parties within thirty (30) days after the transcript is
20 received by the designating party, regardless of whether any confidentiality
21 designation was made on the record at the time the testimony was given.

1 4. A designation by a party of CONFIDENTIAL information shall be
2 made in good faith.

3 5. A party shall not be obligated to challenge the propriety of a
4 CONFIDENTIAL designation at the time made, and failure to do so shall not
5 preclude subsequent challenge thereto. Failure to challenge the propriety of any
6 CONFIDENTIAL designation shall not constitute an admission as to the propriety
7 of that designation.

8 6. Counsel for such parties shall make a good faith effort to confer to
9 resolve by agreement any differences as to the use or designation of information as
10 CONFIDENTIAL INFORMATION prior to bringing the issue to the Court.

11 7. All documents and testimony designated as CONFIDENTIAL, and all
12 information derived solely therefrom, if not available in any other source, shall be
13 used solely for the purpose of preparing and litigating claims in this lawsuit and
14 shall not be disclosed, published in any medium by any party, or disseminated
15 except as provided for in Paragraph 8 below. Any use of documents and testimony
16 designated as CONFIDENTIAL, and all information derived solely therefrom, that
17 is inconsistent with the Order shall be a breach of its terms.

18 8. Except as may be otherwise agreed by the parties, or ordered by the
19 Court, disclosure of documents and testimony designated as CONFIDENTIAL,
20 and all information derived therefrom, shall be limited to:

21 (a) A party, or an employee of a party;

1 (b) Counsel for a party, or an employee of counsel for a party to
2 whom it is necessary that the information be shown for purposes of preparing or
3 litigating the Lawsuit, such as any paralegal assistants, or other support staff
4 assisting counsel in the preparation of the Lawsuit;

5 (c) An expert, consultant, or third party consulted or retained by a
6 party or such party's counsel to assist in preparing or litigating the Lawsuit;

7 (d) The Court and any Court staff;

8 (e) A court reporter at deposition, hearing, or trial;

9 (f) A witness, as well as the witness' counsel, if any, in the
10 Lawsuit, at the deposition of such witness, or during the witness's trial testimony,
11 or in preparation for their testimony and/or deposition, if the witness is an author or
12 is copied on the document;

13 (g) A third-party neutral retained by the parties to assist in
14 resolution of the Lawsuit.

15 9. Nothing in this Order shall preclude any party from using
16 CONFIDENTIAL information during hearings, court proceedings, and/or motion
17 practice if the party reasonably believes the CONFIDENTIAL material is necessary
18 for the hearing, court proceeding, and/or motion practice. In the event that a party
19 intends to enter any CONFIDENTIAL information of another into evidence, other
20 than at trial, the disclosing party shall either: (a) provide the other party's counsel
21 with the best practical notice of its intent to file such CONFIDENTIAL information

1 and will provide reasonable opportunity for the other party to obtain an order
2 requiring that such CONFIDENTIAL information be filed under seal pursuant to
3 any applicable General Rules and/or Local Rules of the Court; or (b) file a
4 stipulation and proposed order to seal or motion to seal the CONFIDENTIAL
5 information pursuant to any applicable General Rules and/or Local Rules of the
6 Court. The stipulation or motion can either be filed before or concurrent with the
7 document filed under seal. Where reasonably practical, only those portions of
8 documents or pleadings consisting of CONFIDENTIAL information shall be filed
9 or lodged under seal.

10 10. It shall be a violation of this Order for any party to this case, or his or
11 her counsel, to disclose CONFIDENTIAL information except as set forth in this
12 Order. Any summary exhibits derived from CONFIDENTIAL information that is
13 not available from any other source shall also be governed by the terms of this
14 Order. Notwithstanding the preceding, nothing in this Order shall in any way limit
15 or preclude either party from using any of the CONFIDENTIAL information that it
16 has created or maintained for any of the business purposes for which it was created
17 or maintained.

18 11. Nothing in this Order shall bar, or otherwise restrict, any attorney in
19 this matter from rendering advice to his or her client with respect to this litigation
20 or doing anything reasonably necessary to prosecute or defend this litigation.
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1 12. Nothing in this Order shall be construed to prohibit a party from
2 seeking an order compelling the production of CONFIDENTIAL information.

3 13. Nothing in this Order shall preclude a party from pursuing a
4 protective order or moving to seal any portion of the Court file at any time if such
5 action is deemed necessary by either party in either party's sole discretion.

6 14. This Order shall remain in force and effect until further order of this
7 Court.

8 15. Insofar as the provisions of this Order restrict the use of
9 CONFIDENTIAL information, this Order shall continue to be binding after the
10 conclusion of this litigation.

11 16. When this action, including entry of judgment or appeal, concludes
12 and within thirty (30) days after the litigation has been finally terminated, a
13 producing party may request the return or destruction of all CONFIDENTIAL
14 material produced in this litigation, except those filed with the Court or agreed by
15 the parties to be retained for purposes of effectuating any judgment or any
16 documents that counsel for either party chooses to maintain as part of the client file
17 for up to six years as required by the Rules of Professional Conduct. After the
18 termination of this action, this Order shall continue to be binding upon the parties
19 hereto, and all persons to whom CONFIDENTIAL material has been disclosed or
20 communicated.
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